U.S. EPA Region 9
Annual PWSS Primacy Program and PWSS Grant Review
State of California Department of Public Health
Public Water Supply Supervision Program
Federal Fiscal Year 2012
October 1, 2011 - September 30, 2012
(Prepared December 17, 2012)

1. Background

The U.S. Environmental Protection Agency (EPA) is required to review, on at least an annual basis, the Public Water Supply Supervision (PWSS) program of each State determined to have primary enforcement responsibility (40 CFR §142.17) and the State's performance under the PWSS grant (40 CFR §35.515). EPA is required to review compliance of each primacy State with the requirements in 40 CFR part 142 Subpart B, and the approved State primacy program. The annual review must note any State-initiated program changes; the State is required to report these changes to EPA.

EPA's annual review of the primacy State's program examines the State's compliance with 40 CFR §142.10, the requirements that must be met by States in order to obtain and maintain primary enforcement authority, and 40 CFR §142.16, the special primacy requirements that are generally instituted with adoption of each new federal rule.

EPA's annual review of the PWSS grant performance must discuss accomplishments as measured against work plan commitments, the cumulative effectiveness of the work performed under all work plan components, existing and potential problem areas, and suggestions for improvement, including, where feasible, schedules for making improvements.

This annual review of California Department of Public Health's (CDPH) PWSS program and PWSS grant performance covers the following areas:

- Program Administration and challenges,
- Adoption of Drinking Water Regulations no less stringent than the national primary drinking water regulations,
- Fulfillment of special primacy requirements,
- Rule Implementation,
- State procedures for the enforcement of the State primary drinking water regulations,
    - Enforcement Authority,
    - Enforcement Tracking Tool (ETT) performance,
    - State enforcement policy,
    - Data Management: Maintaining a current inventory of public water systems and Violations reporting,
    - Sanitary Survey Program,
    - Program for plan and specifications review,
- Recordkeeping and reporting of State activities under paragraphs (a), (b) and d in compliance with §§142.14 and 142.15,

- Provision of Drinking Water Supplies under Emergency Conditions,
- Administrative Penalty Authority,
- Electronic Reporting,
- Capacity Development Program,
- Operator Certification.

The authority for conduct of the annual primacy reviews has been delegated to the Regional Administrator's level and is carried out by the Regional Drinking Water Office.

2. Program Administration.

Budget and Funding Sources
The following budget items are posted online as part of the California Governor's Three Year Budget, FY 2011 – 2012.

DRINKING WATER FUNDING SOURCE	**ESTIMATED FY 2011-2012 PWSS PROGRAM BUDGET* ($ Million)**
General Fund	2.4
Water Treatment Devices	0.3
Operator Certification	1.7
Safe Drinking Water Account (Fees)	13.2
BioTerrorism	0.4
PWSS (Federal Grant)	6.4
SRF PWSS Program Management Set-Aside	5.2
SRF Capacity Development Set-Aside	3.5
SRF Small Water System TA Set-Aside	1.7
TOTAL	**34.8**

* Does not include State or Federal Drinking Water Infrastructure funding amounts.

Budgetary Issues
California entered federal fiscal year 2012 with the continuing budget restrictions, including restrictions on travel and electronic communication devices (e.g. Blackberries).

Unlike State fiscal year 2011, California's State FY 2012 (July 1, 2011 – June 30, 2012) budget was timely adopted. EPA R9 was able to award California 80% of its federal fiscal year 2012 allotment in December 2011. The State PWSS federal allotments were settled in late February 2012 and the remaining 20% of California's FY2012 PWSS grant was awarded in March 2012.

The existing four-year PWSS grant ended September 30, 2012 and was not amended again. CDPH decided to avoid having carryover funds by spending down all remaining grant funds by 9/30/12, thereby building up the State's Safe Drinking Water Account (fees). The State's Final Financial Report, due 12/31/12, will tell us their success with that approach.

CDPH continued to take nearly the full SRF set-asides in FY2012 in order to continue funding its drinking water program at pre-FY2011 levels.

Hiring Freeze
The State's hiring freeze continued into the early months of FFY 2012. However, by June 2012, the hiring freeze was lifted and CDPH was attempting to fill every important vacancy for which there was funding. If positions were not filled they would be swept by the Department in the ongoing "reduction in government drill". Approximately 17 vacancies needed to be filled at that time, most being in the field offices. By the end of the FFY 2012, all or nearly all of the vacancies had been filled.
Efforts to eliminate students did not affect DDWEM's engineering student interns. However, efforts to eliminate "non-mission critical" retired annuitants resulted in the loss of some of CDPH's retired annuitants.

CDPH decided to make SRF positions (federal) permanent. As the funding programs under State Propositions 84 and 50 close down, CDPH would like to move the staff into positions that it is working on creating in the small water systems arena.

Furloughs
With the new state fiscal year on July 1, 2012, it was settled that state employees would continue on a one day per month self-directed furlough, which translates into a 4.62% cut in pay and a potential loss of billable hours.

Travel Restrictions
Travel restrictions continued throughout FY2012. In order to allow State staff to travel, programmatic conditions were added to the PWSS grant award, as needed, requiring certain critical travel. In anticipation of continued travel restrictions in FY2013, the State and EPA developed similar programmatic conditions for the FY2013 PWSS grant.

Lack of Exams and Qualified Candidates
In July 2011, the Field Operations Branch Chiefs reported that CDPH was unable to fill positions due to a lack of qualified candidates. Their exam had not been conducted for three years and simply extending the list date was not effective because it doesn't add new qualified candidates to the list. The concern was expressed at that time that lack of qualified candidates may prevent the Department from adequately addressing succession planning.

In June 2012 the engineering exam was held. CDPH planned to do one more exam to handle applications to be received in October 2012. After that exam, CDPH plans to halt exams for at least 6 months during which time CDPH will revise the exam.

Personnel Changes
There were many personnel changes in FY2012. The major changes are noted here. Ron Chapman and Kathleen Billingsley were confirmed as Director and Assistance Director of CDPH. Mark Starr, D.V.M. filled the Center for Environmental Health director's position vacated by Rufus Howell. David Mazzera filled the Assistance DDWEM Chief position vacated by Steve Woods. Bruce Burton filled the Northern California Field Operations Branch Chief position vacated by Carl Lischeske. Jeff O'Keefe filled the Region V Engineer position vacated by Heather Collins. Stefan Spich filled the attorney's position vacated by Brad Nakano.

Cliff Bowen, who spearheaded the drinking water security, retired in FY2012. Kim Wilhelm, Technical Programs Branch Chief is due to retire in October 2012. Robin Belle Hook, Chief of the Scientific and Environmental Services Section, is due to retire in November 2012.

3. Adoption of Drinking Water Regulations no less stringent than the national primary drinking water regulations and fulfillment of special primacy requirements.

40 CFR §142.10(a) requires a state with primary enforcement responsibility for public water systems to adopt drinking water regulations which are no less stringent than the national primary drinking water regulations (NPDWRs) in effect under 40 CFR §141.

In May 2012, California adopted the Stage 2 Disinfection Byproducts Rule with an effective date of June 21, 2012.

Table 1 in Appendix A lists the most recent federal rulemakings for which California has not yet received a determination of primacy by EPA but is in some stage of 1) rule development and adoption, 2) primacy package preparation, 3) EPA review of a completed primacy package, or 4) responding to an EPA primacy package review.

Review of Table 1 indicates that California has adopted state versions of the following 14 federal rules: Phase II and V; Lead and Copper and Lead and Copper Minor Revisions; revised PWS Definition; Administrative Penalty Authority; Consumer Confidence Report; Surface Water Treatment Rule Filtration Avoidance Amendment; Interim Enhanced Surface Water Treatment Rule (IESWTR); Filter Backwash Recycle Rule; Stage 1 Disinfectants/Disinfection Byproducts Rule; Stage 2 Disinfectants/Disinfection Byproducts Rule; Public Notification Rule; Radionuclides Rule; Arsenic Rule; and Ground Water Rule.

For these fourteen adopted state rules, EPA's Office of Regional Counsel is currently reviewing four primacy packages (CCR, Stage 1, PN, Arsenic), the State is preparing five new primacy packages (GWR, PWS Definition, Administrative Penalty, SWTR filtration avoidance, Stage 2 DBPR), and the state is preparing responses for five primacy packages after receiving comments from EPA (Phase 2/5, LCR, IESWTR, FBRR, Radionuclides).

California is in the process of developing and adopting state versions of the following 3 federal rules: Long Term 1 Enhanced Surface Water Treatment Rule; Long Term 2 Surface Water Treatment Rule; and the Lead and Copper Rule Short Term Revisions.

California obtained two year extensions for each of the three federal rules not yet adopted. These extensions have expired. However, California continues to honor the terms of the extensions and tracks compels compliance to the extent of the State's authorities. When the State is unable to compel compliance through informal means, EPA Region 9 will assist with enforcement.

During FFY 2011-2012, Assembly Bill 685, known as the Human Right to Water Bill, was adopted by the State legislature. This bill establishes state policy that every human being has the

right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. Relevant State agencies are required to consider this policy in the conduct of their activities.

4. Rule Implementation.

In 2009, Cadmus Group, an EPA contractor, and EPA Region 9 staff conducted a data verification audit/program review of California PWSS program implementation. A summary of the recommendations from the final report dated August 30, 2010 is found in Appendix C, Final Report: Program Review for the CDPH DDWEM. CDPH acknowledged the validity of the report's findings, with the exception of recommendation D.4. (regarding data input) and shared the recommendations with staff.

Continuing efforts by CDPH in FY 2012 to address significant recommendations of the 2009 review include: 1) emphasis on completeness and accuracy of LPA reporting by the small water systems unit and 2) better tracking to help improve the frequency of sanitary surveys.

The 2009 data verification audit/program review is now out of date and there are currently no funds for contractor support to conduct this audit/review. Region 9 will need to develop a streamlined review method so that it can conduct some level of review of rule implementation in FY 2013. A national EPA work group will be formed in FY 2013 to develop a model that Regions can use.

5. Outreach and Training.

With respect to outreach and training, CDPH noted that many LPA employees working in the PWSS programs have or are due to retire soon. Much knowledge and experience will be lost with these retirements and DDWEM's small water systems unit is focusing on outreach and training to LPAs. CDPH held its LPA annual training in spring of 2012 and is planning for its 2013 training to be held in March 2013. In addition, CDPH has filled the Small Water Systems Unit Chief position. Wendy Killou was appointed to fill the position.

Outreach and training for small public water systems occurs through the capacity development program (see section 13).

6. State Procedures for the Enforcement of the State Primary Drinking Water Regulations.

6.a. Enforcement Authority adequate to compel compliance with the State primary drinking water regulations.

A summary of California's enforcement authorities, as required under 40 CFR§142.10(6) is found in Appendix D.

6.b. Enforcement Tracking Tool (ETT) performance.

California was relatively quick to embrace EPA's Enforcement Response Policy (ERP) and respond to systems on the Enforcement Tracking Tool (ETT) list with scores greater than 11. Because the water systems with scores greater than 11 on the ETT list are overwhelmingly small systems and many of these systems are regulated by the local primacy agencies (LPAs, county governments delegated primary enforcement authority), the quarterly ETT list sets the stage for regular engagement between the LPAs and CDPH's Small Water Systems (SWS) Unit. This has been beneficial for State oversight of the LPA programs. The SWS Unit contacts the LPAs on a quarterly basis where the LPA has a system on the list that must receive an addressing action. The LPAs and SWS Unit work together to identify and correct data errors and to discuss the status of systems that will receive enforcement action. The SWS Unit has also used the quarterly contacts to educate the LPAs on the need for enforcement orders that identify milestones and an enforceable schedule.

California has committed to addressing all community and non-transient non-community water systems with scores greater than 11 on the ETT list. California has not formally committed to addressing transient non-community water systems.

Confirm with Joel/Everett* Review of the ETT list at the end of the fourth quarter of FFY2012 showed that California is not timely addressing all the small systems on the list.***Provide stats; possible action; CA should provide an action plan: WendyK(?)***

It is important that we track systems that were once on the ETT list, but removed from the list because they have been issued an enforcement action. It is important to ensure that these systems receive capacity development assistance, including assistance in applying for funding.

6.c. State enforcement policy.

CDPH DDWEM did not report any changes to its PWSS enforcement policy. However, the small water systems unit did note that they will be placing emphasis on the need for LPAs to include milestones and enforceable schedules in their compliance orders.

The FY2013 PWSS work plan contains a requirement that CDPH provide EPA with copies of each of the state and LPA enforcement actions that go out. All CDPH enforcement actions will be placed on a website accessible by EPA. Because provision of copies of enforcement orders is not a requirement in the current delegation agreements with CDPH, provision of LPA enforcement orders will be phased in as delegation agreements expire and are updated. In the interim, CDPH will request that LPAs voluntarily provide copies of enforcement orders.

6.d. Data Management: Maintaining a current inventory of public water systems; Violations reporting.

Transition to SDWIS-State
California's full transition to SDWIS-State has been delayed because the local primacy agencies (LPAs) use proprietary databases (e.g Envision) that do not properly "communicate" with SDWIS. Even though the CDPH District offices are using SDWIS/State for inventory and, in 2012, continued to work on transitioning to the use of other SDWIS/State functions, data must be

fed from SDWIS-State back into the PICME database and then on to SDWIS/Fed in order to successfully transmit both LPA and District data into SDWIS/Fed.

CDPH decided to continue moving forward with the transition to SDWIS/State on the District level. Training for the District offices on input of violations and enforcement actions into SDWIS/State is scheduled for early in FY 2012-2013 and Districts will stop entering actions into PICME by the end of calendar year 2012.

Moving the LPA data from their proprietary databases to SDWIS/Fed remains a problem. EPA and CDPH will be discussing this in the first quarter of FFY 2012-2013 and determining the best course of action.

Violations Reporting
In late FFY 2011, it was noted that California had not been reporting violations for the Ground Water Rule (GWR) and the newer rules such as LT2 SWTR and Stage 2 DBPR. This was not resolved in FFY 2012. Once CDPH is able to fully report District violations and enforcement actions to SDWIS/State as expected in early calendar year 2013, the current version of FedRep can be used to report up to SDWIS/Fed. The reporting into SDWIS/State is complex, CDPH has not had opportunity to closely study the rule violation codes, and training may be needed.

As noted earlier, in first quarter FFY 2012-2013, CDPH and EPA will be discussing ways to facilitate the movement of LPA data to SDWIS/Fed, including violations reporting for new rules.

6.f. State's Sanitary Survey Program

Under the requirements of the federal Government Performance Reporting Act (GPRA), EPA made a commitment of 100% completion of sanitary surveys for Subpart H systems every three years. California's performance, as of data available in October 2012, is that 72% of Subpart H systems have undergone a sanitary survey during the past three years. This is a great improvement over last fiscal year when only 60% of Subpart H systems had undergone a sanitary survey during the prior three years.

CDPH has previously provided a number of reasons for the lack of timely sanitary surveys, including state furloughs, hiring freezes resulting in or prolonging vacancies, LPAs turning back PWSS programs in disarray to the State, the overall poor budgetary/resource environment where everyone has to do more with less, lack of training for newer employees and those needing a refresher, inadequate tracking and planning, and complex sanitary survey report formats.

As budgetary problems have eased somewhat, sanitary survey trainings were provided in FFY2011, and sanitary survey formats have been revised, the Field Operations managers and staff are focusing on better tracking and scheduling of sanitary surveys and are providing incentives to staff who help raise completion rates.

Appendix E lists sanitary survey completion rates by field operation branch (FOB), Region, County, District, and Local Primacy Agency (LPA) and also displays this data graphically. The completion rates and graphical presentations are updated every quarter by the EPA Regional

office as a way of promoting awareness to help District offices and LPAs stay on track. Review of the data in Appendix E shows that sanitary survey completion rates vary among the numerous District offices and the LPAs. The completion rate for the Northern California Branch (63%) is lower than the completion rate for the Southern California Branch (79%). In Northern California, completion rates are lowest in Regions 1 (57%) and 2 (67%), with similar rates amongst both the LPAs and the District offices in those Regions. The LPAs in Region IV have a particularly low completion rate (27%), dragged down by LA and San Luis Obispo counties which have not completed any of their eight required Subpart H sanitary surveys in the prior three years.

CDPH should continue the good progress it made in FFY 2011-2012 at raising Subpart H sanitary survey completion rates, using the data and graphics produced quarterly by EPA to target its efforts in areas where completion rates are lowest.

In FFY 2013, EPA R9 could spend some focus on the content of the sanitary surveys. Randomly selected surveys could be reviewed for compliance with the eight required elements (40 CFR §142.16(b)(3) and 142.16(o)(2)) for a sanitary survey.

6.g. State Program for plan and specifications review, construction and operational permits of new or modified public water supply systems which ensures compliance

California updated its waterworks standards in March 2008 and has been applying the updated standards to all new public water systems, all new construction and replacements in existing public water systems, and all new purchases of water additives. Permit applications are made to the District Offices and are reviewed and approved on both the District and Regional levels.

Significant new changes to the waterworks standards include the requirement for the permit application to be completed by a Professional Civil Engineer, new minimum source capacity and storage requirements, required metering of all active sources, water main separation requirements, required AWWA standards for disinfection, updated well construction and well pump test standards, and minimum operating pressure. The State can also require a system to develop and implement an operation and maintenance plan if O&M deficiencies are found.

As part of its approved Capacity Development Program, California requires new systems and systems changing ownership to have adequate technical, managerial, and financial (TMF) capacity before an operating permit can be issued. Systems must fulfill eleven mandatory TMF criteria.

7.a. State Laboratory Certification Program, including the name(s) of the responsible State laboratory officer(s) certified by EPA.

Background
The California Department of Public Health (CDPH) operates the Environmental Laboratory Accreditation Program (ELAP) which provides evaluation and accreditation of environmental testing laboratories to ensure the quality of analytical data used for regulatory purposes. The State agencies which monitor the environment use the analytical data from these accredited

laboratories. The ELAP-accredited laboratories have demonstrated capability to analyze environmental samples using approved methods.

ELAP operates within the Division of Drinking Water and Environmental Management, under the direction of Leah Walker, Division Chief. David Mazzera, the Assistant Division Chief, serves as the program contact. The ELAP Headquarters is located in Richmond, California. Two ELAP field offices are located in Los Angeles and Sacramento.

The National Environmental Laboratory Accreditation Program (NELAP) granted recognition of ELAP on July 1, 1999, to be the NELAP Accrediting Authority for California. The establishment of California's environmental laboratory accreditation program began ten years prior to this, with the adoption of the California Environmental Laboratory Improvement Act (Department-sponsored Assembly Bill 3739, Chapter 894, Statutes of 1988) which took effect on January 1, 1989. This Act established within the Department of Health Services a consolidated fee-supported accreditation program for environmental health laboratories, and a special fund, the Environmental Laboratory Improvement Fund, to support the program. Under the Act, accreditation is required of an environmental laboratory for producing analytical data for California regulatory agencies, such as Division of Drinking Water and Environmental Management (DDWEM), Department of Toxic Substances Control in California Environmental Protection Agency, State Water Resources Control Board, Regional Water Quality Control Boards, and California Department of Food and Agriculture. The data may be used to demonstrate compliance with applicable requirements of drinking water, wastewater, food for pesticide residues, shellfish testing, and hazardous waste sections of the California Health and Safety and Water Codes.

In addition to accreditation of laboratories, ELAP also conducts investigations and takes enforcement actions as warranted. ELAP provides technical consultations and regulatory updates to the environmental laboratory community. ELAP also provides information on certified laboratories to government agencies and the general public.

Laboratories may be certified in one or more of 28 prescribed Fields of Testing (FOT). The following six FOTs are specific to drinking water:

E101 - Microbiology of Drinking Water
E102 - Inorganic Chemistry of Drinking Water
E103 - Toxic Chemical Elements of Drinking Water
E104 - Volatile Organic Chemistry of Drinking Water
E105 - Semi-volatile Organic Chemistry of Drinking Water
E106 - Radiochemistry of Drinking Water

ELAP may offer reciprocity and recognize accreditation of environmental laboratories granted by other states or U.S. government agencies. This process of accreditation through reciprocity saves considerable resources and still meets the needs of the program.

Region FY 2012 Review
The EPA Region 9 laboratory conducted an annual review of California's ELAP program on 11/22/2011 and confirmed California's NELAP accreditation (see Appendix B). However, EPA

did point out that the state does not have a microbiologist on staff and that it would be helpful to have a microbiologist overseeing certification of the many laboratories conducting microbiological analyses throughout the state.

In June 2012, CDPH verbally informed the EPA R9 Drinking Water Office that they had hired a microbiologist for the ELAP program.

7.b. Availability to the State of Certified Laboratories Capable of analyzing for all regulated contaminants

California Department of Public Health maintains a list of certified laboratories which can be accessed via a link on the CDPH website:
http://www.cdph.ca.gov/certlic/labs/Pages/ELAP.aspx

California also maintains separate lists of laboratories certified for chromium 6 and nitrate analyses. This list may also be accessed from the above website.

Certified laboratories are geographically located throughout the state. Together with several out-of-state laboratories certified by California, these laboratories are adequate to meet the analytical needs of the PWSS program.

There are currently 262 drinking water laboratories licensed by ELAP for chemistry, 303 for microbiology, and 21 for radiochemistry.

7.c. State Laboratories - Status

The State of California currently holds the following certifications for drinking water analyses from EPA Region 9, based upon correspondence provided by the EPA Region 9 laboratory (See Appendix B):

- Richmond CDPH Drinking Water and Radiation Laboratory – North; regulated organic and inorganic drinking water contaminants; expires 11/1/2013.

- Los Angeles Sanitation and Radiation Laboratory; Drinking Water Microbiological Methods (multiple tube fermentation, Colilert, heterotrophic plate count), expires 12/1/2013.

- Richmond Microbial Disease Laboratory; Drinking Water Microbiological Methods (membrane filtration, multiple tube fermentation, Colilert, Colisure, heterotrophic plate count), expires 3/1/2014.

- Richmond Environmental Health Laboratory Branch; Asbestos in Drinking Water (EPA Method 100.2), expires 7/1/2014.

Los Angeles Laboratory

CDPH's Los Angeles (L.A.) laboratory is nearly taken out of service. The state found it necessary to close the laboratory to save money as the laboratory budget came from the state General Fund. The L.A. laboratory building is unsafe and there is no alternate built-out laboratory building available.

In July 2012, CDPH had verbally informed EPA that as part of the new CDPH budget and, as anticipated, the L.A. laboratory would be closed and consolidated with the Richmond lab. Some staff were absorbed into the Glendale office.

CDPH feels that they can deal with microbiological samples from Southern California with short turn-around time by either using FedEx and/or by developing and utilizing agreements with certified laboratories of local PWSs.

Richmond Microbial Disease Laboratory

The Microbial Disease Laboratory (MDL) in Richmond has considered letting its certification for drinking water microbiological analyses lapse (current certification ends March 1, 2014). The question of how this would affect primacy came into question.

The "bottom line" is that if loss of MDL microbial certification doesn't affect the drinking water program in ways that can't be compensated for by other avenues, then there shouldn't be a problem with maintaining primacy.

For example, if MDL's certification for the drinking water microbiological methods is not essential for keeping laboratory certification staff knowledgeable about the microbial methods so that they can adequately do their job in certifying the private laboratories in California, then abandoning the certification for the drinking water microbiological methods wouldn't be a problem for primacy in this respect.

There is also the question of CA's emergency response plan for ensuring the availability of safe drinking water supplies in the event of emergencies (a required primacy element) and whether abandonment of MDL's certification for the DW microbial methods would hinder California's emergency response capability. Since the L.A. laboratory is closed, California will need to arrange for conduct of microbiological analyses through contract with either private certified laboratories or certified public water systems.

8. Maintain recordkeeping and reporting of its activities under paragraphs (a), (b) and d incompliance with §§142.14 and 142.15.

In an August 27, 2008 discussion, California stated that the Department does need an overall records retention policy as required by the primacy regulations but noted the stringency of some of the requirements, particularly those of 142.14(a)(4)(ii)(A) which require certain records of decision to be retained for 40 years or until a decision is reversed. California asked EPA for guidance regarding any flexibility that might exist with respect to the material that must be retained (e.g. a log of decisions and justifications as opposed to storage of all related evidence.)

9. Variances and Exemptions

California has authority to issue variances and exemptions but, as a matter of policy, does not.

10. Emergency Response – Adopting and Implementing an adequate plan for the provision of safe drinking water under emergency circumstances.

Joseph Crisologo became the lead for drinking water security and emergency response matters at CDPH following the retirement of Cliff Bowen.

The two remaining EPA Security Grants to CDPH expired in October 2012. California continues to fund emergency response positions using a portion of the 10% SRF PWSS program administration set-aside. CDC also provides funding. A CDPH "duty officer" is always on call; staff rotate in and out of this role.

CDPH has actively participated in WARN, BASIC, and is part of the CAMEL network. CDPH has both participated in and sponsored table-top emergency response exercises. The state developed the concept of a "water desk" position that would be established as part of an emergency operations center and has provided training on this position. Other state and federal agencies have shown interest in and acceptance of the concept and similar trainings have been held on the national level.

The state program developed and maintains drinking water "emergency sampling kits-to-go." CDPH's PWSS program is working cooperatively with CDPH's Environmental Health Investigations Branch to map public water systems' service area boundaries.

California's drinking water emergency response program has grown greatly in scope and capability since the state's original primacy package was approved.

CDPH's Division of Drinking Water and Environmental Management (DDWEM) has been working cooperatively with their Environmental Health Investigations Branch (EHIB) to develop a publicly available GIS layer of mapped public water system service area boundaries. The EPA security grant provided partial funding for this project. The mapped service area boundaries will be useful not only for emergency response purposes, but also for waterborne disease investigations and determining opportunities for consolidation of water systems.

11. Adopt Authority for assessing administrative penalties.

In 1996, the Safe Drinking Water Act (SDWA) was amended to require primacy agencies to possess or acquire certain Administrative Penalty authorities. For public water systems serving greater than 10,000 people, the state must have the authority to impose a penalty of at least $1,000 per day per violation. For PWSs serving 10,000 or fewer people, the state must have penalties that are adequate to ensure compliance with the state regulations.

Discussions between EPA and California in 1997 resolved that although California had administrative penalty authority, additional authority would be needed to meet the new SDWA requirements. This would require action by the State legislature. On April 28, 1998, the Federal Register announced regulatory revisions to 40 CFR Part 142 with respect to administrative penalty authority requirements for primacy agencies. No formal guidance or crosswalk for the administrative penalty authority requirements was provided by U.S. EPA Headquarters at that time. In February 2008, the Region 9 office provided California with guidance and a crosswalk for the administrative penalty requirements.

Pointed discussions between CDPH and EPA about the shortcomings of California's administrative penalty authority began in early 2004. In October 2009, California Assembly Bill 1540 was passed. This bill removed an existing exemption for turbidity violations. In October 2011, Assembly Bill 1194 was signed into law. AB1194 eliminated a classification system under which secondary MCLs and other non-primary drinking water regulations (potentially including violations of Consumer Confidence Report and Public Notification regulations) would be subject to a maximum penalty less than that required by the SDWA.

California has not yet submitted a primacy package for Administrative Penalty Authority. EPA Region 9 will make a formal determination on the adequacy of California's administrative penalty authority when the primacy package is submitted. (An informal review by EPA's Office of Regional Counsel indicates that California now has adequate administrative penalty authority.)

12. Adopt regulations consistent with 40 CFR Part 3, Electronic Reporting, if the state receives electronic documents.

States which administer authorized programs under Title 40 of the Code of Federal Regulations (CFR) are required to comply with 40 CFR Part 3, Cross-Media Electronic Reporting regulations (CROMERR). Documents required under the PWSS program may be submitted electronically provided that the State program meets the requirements of 40 CFR §§3.2000. 40 CFR §3.1000 required state programs like California's, which already receive electronic documents under an existing program, to submit an application to EPA by January 13, 2010, demonstrating that the state's electronic delivery system is in compliance with the requirements of 40 CFR §3.2000.

As of November 6, 2012, the U.S. EPA website indicates that CDPH submitted its application to EPA and the application is currently under review.

The requirements and the format for reporting laboratory results of public water systems' water quality analyses in California were established in 2001 with the adoption of Title 22 of the California Code of Regulations, Sections 64449 and 64819. All certified drinking water analytical laboratories—including those that are subcontractors of other laboratories—are required to submit water quality data, with the exception of bacteriological analyses, directly to CDPH in digital, electronic form. This submittal is referred to as Electronic Data Transfer (EDT).

The CDPH EDT website provides the information and materials needed for EDT and is updated regularly so that laboratories can continue to successfully submit data through EDT as

requirements change. EDT water quality analytical results may be sent to CDPH by e-mail or on discs or CDs by mail or overnight delivery service.

13. Operator Certification

California submitted its annual operator certification report in September 2012. Pursuant to Section 1452(a)(1)(G)(ii) of the SDWA, the EPA Region 9 office determined that "*the State has adopted and is implementing a program for the certification of operators of community and non-transient noncommunity public water systems that meets the requirements of the guidelines*" and is eligible to receive its full FY2013 capitalization grant. The State FY 2011 – 2012 annual operator certification report and EPA's draft program evaluation is found in Appendix F.

14. Capacity Development

In FY 2011-2012, California continued work on improved implementation of the capacity development program to more effectively focus and track technical assistance to small water systems. The State's annual capacity development report is found in Appendix G.

In addition, CDPH continued to work closely with the local primacy agencies to improve data reporting and develop a more complete picture of small system noncompliance. In FY 2011-FY 2012, the State began and completed development of the Small Systems Program Plan, an internal strategic plan for getting small systems with health based violations back into compliance. The Small Systems Program goal is to increase by one percent each year the percentage of small systems that meet all primary drinking water standards. The Small System Program Plan and the associated goal to reduce health-based violations over a defined period will serve as a good companion measure of capacity improvement alongside the TMF assessments and tune-ups.

CDPH also intends to amend their grant with Rural Community Assistance Corporation (RCAC) by $25,000 to provide more assistance to water systems interested in restructuring or consolidation with other systems.

EPA remains concerned about current and upcoming staffing changes and the impact on the capacity development program. CDPH has been successful in filling vacancies program-wide and hopefully can fill vacancies within the capacity development program and be successful in its efforts to obtain authority for additional staff positions across the program for work in the small systems arena.

15. List of Appendices

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Appendix B. State Laboratory and ELAP Certifications
Appendix C. Recommendations from the 2009 Final Program Review for CDPH DDWEM, August 2010
Appendix D. Summary of California's Enforcement Authorities, as required by 40 CFR§142.10(6)

Appendix E. Sanitary Survey Performance
Appendix F. California State FY 2010-2011 Operator Certification Report and EPA draft program evaluation
Appendix G. California State FY 2010-2011 Capacity Development Report and program evaluation.